IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1520 OF 2007

Bharatiya Kamgar Karmachari
Mahasangh ..Petitioner
versus
Mr. Jayaram Mani, Hon. Secretary
Shri Shanmukhananda Fine Arts
& Ors. ..Respondents

Mr. R. S. Pai i/b. Mr. T. R. Yadav for the Petitioner.

Ms. Meena Doshi for the Respondents.

CORAM : D.B. BHOSALE, J.
DATE : 6TH AUGUST, 2007.

P.C.

1. Heard learned counsel for the Petitioner and the learned counsel for the Respondents. Rule, returnable forthwith. By consent, Petition is taken up for hearing.

2. This writ petition is basically directed against the Order dated 18.11.2006, by which the Industrial Court, Maharashtra at Mumbai, disposed of the complaint filed by the Petitioner-Union for want of evidence. The Order dated 18.11.2006 reads thus:

"Complainant and Advocate remained absent though called out and waited up to 3.30 p.m. Moreover, Complainant failed to adduce evidence since 25/11/2005. Hence Complaint is disposed of for want of evidence."

In view of the disposal of their complaint for want of evidence, the Petitioner-Union filed application under Section 31 of the MRTU & PULP Act, seeking review of the Order dated 18.11.2006. That application is rejected by the Industrial Court mainly on the ground that the order dated 18.11.2006 is not an exparte order and, therefore, it cannot be set aside under the provisions of Section 31 of the MRTU & PULP Act.

3. Ms. Meena Doshi, learned counsel for the respondents invited my attention to the different stages of the proceedings starting from the date of filing of the complaint and submitted that looking to the conduct of the petitioner-union, the order impugned in the present writ petition need not be interfered with.

4. After having heard the learned counsel for the parties, and having perused the entire material

placed before me, in my opinion, the impugned order deserves to be set aside in the interest of justice and in order to give a fair opportunity to the petitioner - complainant of being heard on merits. Hence, I pass the following order :

ORDER

i) The impugned Order dated 18.11.2006 is quashed and set aside and the complaint (ULP) No. 459 of 2002 is restored to file.

ii) The Industrial Court shall decide the complaint filed by the petitioner union bearing Complaint (ULP) No. 459 of 2002 as expeditiously as possible and preferably within a period of eight months from the date of receipt of this order. Industrial Court shall decide the complaint on merits in accordance with the law.

iii) All the contentions are kept open.

iv) Parties are directed to cooperate in disposal of the complaint within the time frame.

v) Rule is accordingly disposed of.

(D. B. BHOSALE, J.)